

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
M2Z NETWORKS, INC.)
)
Application for License and Authority to) WT Docket No. 07-16
Provide National Broadband Radio Service in)
the 2155-2175 MHz Band)

To: The Wireless Telecommunications Bureau

**OPPOSITION OF AT&T, INC. TO
CONSOLIDATED MOTION OF M2Z NETWORKS, INC. TO STRIKE AND DISMISS
PETITIONS TO DENY AND ALTERNATIVE PROPOSALS**

AT&T Inc., on behalf of its affiliate, AT&T Mobility LLC (f/k/a Cingular Wireless LLC) (“AT&T”), hereby opposes the Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals,’ insofar as it relates to the Petition to Deny filed by AT&T.² M2Z moves to dismiss all of the applications and petitions to deny, including AT&T’s petition, on alleged procedural grounds, including failure to serve M2Z, failure to include affidavits, and failure to demonstrate standing. With respect to AT&T, M2Z makes no allegation that any of these formalities were violated – nor could it, as AT&T complied with each of them.³

¹ Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny, WT Docket Nos. 07-16 & 07-30 (Mar. 26, 2007) (“Motion”); see 47 C.F.R. § 1.45(b).

² See AT&T Inc., Petition to Deny, WT Docket 07-16 (Mar. 2, 2007) (“AT&T Pet.”).

³ See Motion, Exhibit C. M2Z complains about other parties’ practices with regard to service of filings, but those other filings were submitted electronically and were promptly available to M2Z via EFCS after overnight batch processing. By contrast, M2Z submitted its opposition and related filings on paper, making them unavailable in ECFS for days in the face of an already abbreviated reply cycle, and refused to provide electronic copies requested as a courtesy.

The only allegation touching upon AT&T is the blanket statement that “all of the Petitions and Applications should be dismissed with prejudice because they fail to meet their statutory burden of making *aprimafacie* case as to why grant of the M2Z Application would be inconsistent with the public interest.”⁴ This is an argument going to the substantive merits of a petition, not a matter for dismissal on procedural grounds. M2Z offers *not a single example* of how the AT&T petition fails to meet the *prima facie* case standard.⁵ M2Z criticizes petitioners for “general attacks, unsupported by specific allegations,”⁶ but that is exactly what it has done here in leveling an unsubstantiated charge of failure to make a *prima facie* showing against AT&T. Its “showing” consists of nothing more than a single checked box in Exhibit C to the Motion.⁷ In fact, the only reference to AT&T in the entire *prima facie* discussion is a concession that AT&T filed an affidavit.⁸

AT&T’s petition demonstrated in detail that there are substantial and material questions of fact, information voids and legal grounds why the application cannot be granted in the public interest.⁹ This clearly meets the *prima facie* requirement and M2Z’s conclusory assertion is meritless.¹⁰

⁴ See Motion at 15.

⁵ See *id.* at 13-16.

⁶ *Id.* at iv.

⁷ See *id.*, Exhibit C.

⁸ See *id.* at 16.

⁹ See AT&T Pet. at 4-25.

¹⁰ A *prima facie* case is established when the specific allegations of fact, *taken as true and considering no other evidence*, show that grant would be inconsistent with the public interest. See, e.g., *Astroline Com. Co. Ltd. Partnership v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988); *Gencom, Inc. v. FCC*, 832 F.2d 171, 180-181 (D.C. Cir. 1987); *Citizensfor Jazz on WRVR, Inc. v. FCC*, 775 F.2d 392, **394**, 397 (D.C. Cir. 1985). As the court explained in *Citizensfor Jazz*, the Commission does not need to be shown a fire, only “a good deal of smoke.” 775 F2d at 397.

For the foregoing reasons, M2Z's motion to dismiss should be summarily denied with respect to AT&T's Petition to Deny.

Respectfully submitted,

AT&T INC.

By: /s/ Michael P. Goggin

Paul K. Mancini

Gary L. Phillips

Michael P. Goggin

David C. Jatlow

1120 20th Street, NW

Washington, DC 20036

(202) 419-3055

Its Attorneys

April 5, 2007

CERTIFICATE OF SERVICE

I, Sarah Dahlia Gutschow, hereby certify that on this 5th day of April 2007, copies of the foregoing Opposition of AT&T, Inc. to Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals were served by first-class mail on the following:

Uzoma C. Onyeije
M2Z Networks, Inc.
2000 North 14th Street
Suite 600
Arlington, VA 22201

Milo Medin
M2Z Networks, Inc.
2800 Sand Hill Road
Suite 150
Menlo Park, CA 94025

W. Kenneth Ferree
Erin L. Dozier
Christopher G. Tygh
Sheppard Mullin Richter & Hampton LLP
1300 I Street, NW
11th Floor East
Washington, DC 20005
Counsel to M2Z Networks, Inc.

Julie M. Keamey
Consumer Electronics Association
2500 Wilson Boulevard
Arlington, VA 22201

Linda Kinney
Bradley Gillen
EchoStar Satellite L.L.C.
1233 20th Street, N.W.
Washington, DC 20036-2396

Stephen E. Coran
Rudolfo L. Baca
Jonathan E. Allen
Rini Coran, PC
1615 L Street, NW, Suite 1325
Washington, DC 20036
Counsel to Speedus Corp. and NetfreeUS, LLC

Shant S. Hovnanian
Speedus Corp., Managing Member of
NetfreeUS, LLC
9 Desbrosses Street, Suite 402
New York, NY 10013

David J. Kaufman
Brown Nietert & Kaufman, Chartered
1301 Connecticut Ave., NW, Suite 450
Washington, DC 20036
Counsel to Commnet Wireless, LLC

Louis Tomasetti
Commnet Wireless, LLC
400 Northridge Road, Suite 130
Atlanta, GA 30350

Russell D. Lukas
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard, Suite 1500
McLean, VA 22102
Counsel to McElroy Electronic Corporation

Jennifer McCarthy
NextWave Broadband Inc.
12670 High Bluff Drive
San Diego, CA 92130

Robert J. Irving Jr.
Leap Wireless International, Inc.
10307 Pacific Center Court
San Diego, CA 92121

John T. Scott III
Verizon Wireless
1300 Eye Street, NW, Suite 400 West
Washington, DC 20005

Steve B. Sharkey
Motorola, Inc.
1455 Pennsylvania Ave., NW, Suite 900
Washington, DC 20004

Andrew Kreig
The Wireless Communications Association
International, Inc.
1333 H Street, NW, Suite 700 West
Washington, DC 20005

George E. Kilguss
TowerStream Corporation
Tech 2 Plaza
55 Hammarlund Way
Middletown, RI 02842

Nancy J. Victory
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Counsel to Verizon Wireless

Thomas Sugrue
Kathleen O'Brien Ham
Sara Leibman
T-Mobile USA, Inc.
401 9th Street, NW, Suite 550
Washington, DC 20004

Gregory W. Whiteaker
Donald L. Herman, Jr.
Bennet & Bennet, PLLC
10 G Street, NE
Suite 710
Washington, DC 20002
*Counsel to TowerStream Corporation and
The Rural Broadband Group*

Michael F. Altschul
Christopher Guttman-McCabe
Paul W. Garnett
Brian M. Josef
CTIA – The Wireless Association
1400 16th Street, NW, Suite 600
Washington, DC 20036

Joe D. Edge
Drinker, Biddle & Reath, LLP
1500 K Street, NW
Suite 1100
Washington, DC 20005
Counsel to Open Range Communications, Inc.

Brian Peters
Information Technology Industry Council
1250 Eye Street, NW
Suite 200
Washington, DC 20005

Stephen C. Liddel
Open Range Communications, Inc.
6465 South Greenwood Plaza Blvd.
Centennial, CO 80111

James H. Barker
Latham & Watkins, LLP
555 11th Street, NW, Suite 1000
Washington, DC 20004
Counsel to Leap Wireless International, Inc.

A handwritten signature in black ink, reading "S. Dahlia Gutschow", is positioned above a horizontal line.

Sarah Dahlia Gutschow